

1 MICHAEL BAILEY
 2 United States Attorney
 3 District of Arizona
 4 CRAIG H. RUSSELL
 5 Assistant U.S. Attorney
 6 United States Courthouse
 7 405 W. Congress Street, Suite 4800
 8 Tucson, Arizona 85701
 9 Telephone: 520-620-7300
 10 Email: craig.russell@usdoj.gov
 11 Attorneys for Plaintiff

12 IN THE UNITED STATES DISTRICT COURT
 13 FOR THE DISTRICT OF ARIZONA

14 United States America,
 15 Plaintiff,

20-CR-00253-TUC-JAS

16 vs.

PLEA AGREEMENT

17 Jesus Guillermo Martinez-Salgado,
 18 Defendant.

(Fast Track §5K3.1/
 Government Savings §5K2.0)

19 The United States of America and the defendant agree to the following disposition
 20 of this matter:

21 PLEA

22 1. The defendant agrees to plead guilty to Count One of the Indictment charging
 23 the defendant with Conspiracy to Import Fentanyl, Heroin, Methamphetamine, and
 24 Cocaine. The remaining counts of the Indictment will be dismissed at the time of
 25 sentencing. 21:963 *[Signature]* SMH

26 Elements of the Offense

27 2. The elements of the offense are as follows:

28 a. The defendant agreed with at least one other person to commit the
 crimes of Importation of Fentanyl, Heroin, Methamphetamine, and Cocaine;

b. The defendant became a member of the conspiracy knowing that its
 object was Importation of Fentanyl, Heroin, Methamphetamine, and Cocaine, in violation
 of 21 U.S.C. § 963, and intending to accomplish said object.

1 As a sentencing factor, the government would be required to prove that the quantity
2 of fentanyl imported was 400 grams or more; that the quantity of heroin imported was 100
3 grams or more; that the quantity of methamphetamine imported was 50 grams or more of
4 methamphetamine, or 500 grams or more of a mixture or substance containing a detectable
5 amount of methamphetamine; and that the quantity of cocaine imported was 500 grams or
6 more.

7 Maximum Penalties

8 3. The defendant understands that the maximum penalties for the offenses to
9 which he/she is pleading are a fine of \$10,000,000.00, a term of life imprisonment with a
10 mandatory minimum term of ten (10) years, or both, and a term of between five (5) years
11 and lifetime supervised release.

12 4. The defendant agrees to pay a fine unless the defendant establishes the
13 applicability of the exceptions contained in § 5E1.2(e) of the Sentencing Guidelines.

14 5. Pursuant to 18 U.S.C. § 3013, the defendant shall pay a special assessment
15 of \$100.00 per felony count. The special assessment is due and payable at the time the
16 defendant enters the plea of guilty, and shall be paid no later than the time of sentencing
17 unless the defendant is indigent. If the defendant is indigent, the special assessment will
18 be collected according to the provisions of Chapters 227 and 229 of Title 18, United States
19 Code.

20 Drug Conviction & Immigration Consequences

21 6. The defendant understands and acknowledges that pleading guilty may result
22 in the termination or denial of certain food stamp, social security, and other benefits for
23 defendant and the defendant's immediate family pursuant to 21 U.S.C. §§ 862 and 862a.

24 7. The defendant recognizes that pleading guilty may have consequences with
25 respect to his/her immigration status if the defendant is a recently naturalized United States
26 citizen or is not a citizen of the United States. Under federal law, a broad range of crimes
27 are removable offenses, including the offense(s) to which defendant is pleading guilty.
28 Although there may be exceptions, the defendant understands that the defendant's guilty

1 plea and conviction for this offense make it practically inevitable and a virtual certainty
 2 that the defendant will be removed or deported from the United States. The defendant
 3 agrees that he/she has discussed this eventuality with his/her attorney. The defendant
 4 nevertheless affirms that he/she wants to plead guilty regardless of any immigration
 5 consequences that this plea entails, even if the consequence is the defendant's automatic
 6 removal from the United States.

7 STIPULATIONS, TERMS AND AGREEMENTS

8 Agreements Regarding Sentencing

9 8. Guideline Calculations: Although the parties understand that the Guidelines
 10 are only advisory and just one of the factors the Court will consider under 18 U.S.C.
 11 § 3553(a) in imposing a sentence, pursuant to Rule 11(c)(1)(C), Fed. R. Crim. P., the parties
 12 stipulate and agree that the following guideline calculations are appropriate for the charge
 13 for which the defendant is pleading guilty should the Court find that the defendant was an
 14 average participant in the offense:

15	Base Offense Level	2D1.1(c)(1)	38
16	Importation of Methamphetamine	2D1.1(b)(5)	+2
17	Safety Valve*	2D1.1(b)(18)	-2/0
18		[18 U.S.C. §3553(f)]	
19	Acceptance of Responsibility	3E1.1(a) & (b)	-3
20	Early Disposition/Government Savings	5K3.1/5K2.0	-4
21	Total Adjusted Offense Level:		31/33

22 *Safety Valve: Pursuant to Fed. R. Crim. P. 11(c)(1)(B) and (C), the United States
 23 and the defendant stipulate that the defendant shall receive a two-level reduction in the
 24 guideline offense level if the defendant meets all five criteria required for the defendant's
 25 eligibility for the "safety valve" reduction pursuant to the United States Sentencing
 26 Guidelines §§ 2D1.1(b)(18) and 5C1.2(a). The government and the defendant agree and
 27 stipulate that, for purposes of entering into this plea agreement, the defendant's Base
 28 Offense Level will be calculated on the basis that the controlled substances were 1.02

1 kilograms of cocaine, 3.06 kilograms of fentanyl, .66 kilograms of heroin, and 90.99
2 kilograms of a mixture or substance containing a detectable amount of methamphetamine.

3 10. Sentencing Agreement if Defendant is Safety Valve Eligible: Pursuant to
4 U.S.S.G., § 5K3.1, and Fed. R. Crim. P., Rule 11(c)(1)(C), the government and the
5 defendant stipulate and agree that the following are the applicable guideline ranges for the
6 offense, if the defendant is eligible for "safety valve" as set forth above in paragraph 8:

7 108 to 135 months imprisonment if defendant's Criminal History Category is I;

8 121 to 151 months imprisonment if defendant's Criminal History Category is II;

9 135 to 168 months imprisonment if defendant's Criminal History Category is III;

10 a. The defendant may withdraw from the plea agreement if he/she
11 receives a sentence in excess of 168 months imprisonment.

12 b. The defendant may not move for any adjustments in Chapters Two,
13 Three or Four of the Sentencing Guidelines or any "departures" from the Sentencing
14 Guidelines. The defendant may argue for a mitigating role adjustment under U.S.S.G.
15 § 3B1.2, and the government may argue against the adjustment. If the Court grants the
16 mitigating role adjustment, the government will not withdraw from the agreement if the
17 resulting sentence is below the stipulated range in this agreement.

18 c. The defendant may argue for a variance under 18 U.S.C. § 3553(a) in
19 support of a sentence request below the stipulated range in this agreement, and the
20 government may oppose the requested variance. The government, however, will not
21 withdraw from the agreement if the defendant argues for, and the Court grants, a variance
22 below the stipulated range in this agreement.

23 11. Sentencing Agreement if Defendant is Not Safety Valve Eligible: Pursuant
24 to U.S.S.G., § 5K3.1, and Fed. R. Crim. P., Rule 11(c)(1)(C), the government and the
25 defendant stipulate and agree that the following are the applicable guideline ranges for the
26 offense, if the defendant is not eligible for sentencing under the provisions of paragraph 10
27 because the defendant has not met the eligibility requirements of "safety valve" (as
28 described above in paragraph 8):

1 135 to 168 months imprisonment if defendant's Criminal History Category is I;
2 151 to 188 months imprisonment if defendant's Criminal History Category is II;
3 168 to 210 months imprisonment if defendant's Criminal History Category is III;
4 188 to 235 months imprisonment if defendant's Criminal History Category is IV;
5 210 to 262 months imprisonment if defendant's Criminal History Category is V;
6 235 to 293 months imprisonment if defendant's Criminal History Category is VI.

7 a. The defendant may withdraw from the plea agreement if he/she
8 receives a sentence in excess of the stipulated ranges listed above. The government may
9 withdraw from the plea agreement if the Court sentences the defendant below the
10 mandatory minimum term of imprisonment for this offense.

11 12. The defendant understands that if the defendant violates any of the conditions
12 of the defendant's supervised release, the supervised release may be revoked. Upon such
13 revocation, notwithstanding any other provision of this agreement, the defendant may be
14 required to serve a term of imprisonment or the defendant's sentence may otherwise be
15 altered.

16 13. The defendant and the government agree that this agreement does not in any
17 manner restrict the actions of the government in any other district or bind any other United
18 States Attorney's Office.

19 14. The defendant understands and agrees to cooperate fully with the United
20 States Probation Office in providing (a) all criminal history information, i.e., all criminal
21 convictions as defined under the Sentencing Guidelines; (b) all financial information, i.e.,
22 present financial assets or liabilities that relate to the ability of the defendant to pay a fine
23 or restitution; (c) all history of drug abuse which would warrant a treatment condition as
24 part of sentencing; and (d) all history of mental illness or conditions which would warrant
25 a treatment condition as part of sentencing.

26 15. If the Court, after reviewing this plea agreement, concludes any provision is
27 inappropriate, it may reject the plea agreement pursuant to Rule 11(c)(5), Fed. R. Crim. P.,
28

1 giving the defendant, in accordance with Rule 11(d)(2)(A), Fed. R. Crim. P., an opportunity
2 to withdraw defendant's guilty plea.

3 Forfeiture

4 16. Nothing in this plea agreement shall be construed to protect the defendant
5 from civil forfeiture proceedings or prohibit the United States from proceeding with and/or
6 initiating an action for civil forfeiture. Further, this agreement does not preclude the United
7 States from instituting any civil proceedings as may be appropriate now or in the future.

8 Waiver of Defenses and Appeal Rights

9 17. Provided the defendant receives a sentence in accordance with this fast-track
10 plea agreement, the defendant waives (1) any and all motions, defenses, probable cause
11 determinations, and objections that the defendant could assert to the indictment or
12 information; and (2) any right to file an appeal, any collateral attack, and any other writ or
13 motion that challenges the conviction, an order of restitution or forfeiture, the entry of
14 judgment against the defendant, or any aspect of the defendant's sentencing-including the
15 manner in which the sentence is determined, the determination whether defendant qualifies
16 for "safety valve" (U.S.S.G. § 5C1.2 and 18 U.S.C. § 3553(f)), and any sentencing
17 guideline determinations. The defendant further waives: (1) any right to appeal the Court's
18 entry of judgment against defendant; (2) any right to appeal the imposition of sentence
19 upon defendant under Title 18, United States Code, Section 3742 (sentence appeals); (3)
20 any right to appeal the district court's refusal to grant a requested variance; (4) any right to
21 collaterally attack defendant's conviction and sentence under Title 28, United States Code,
22 Section 2255, or any other collateral attack; and (5) any right to file a motion for
23 modification of sentence, including under Title 18, United States Code, Section 3582(c).
24 The defendant acknowledges that this waiver shall result in the dismissal of any appeal or
25 collateral attack the defendant might file challenging his/her conviction or sentence in this
26 case. If the defendant files a notice of appeal or a habeas petition, notwithstanding this
27 agreement, defendant agrees that this case shall, upon motion of the government, be
28 remanded to the district court to determine whether defendant is in breach of this agreement

1 and, if so, to permit the government to withdraw from the plea agreement. This waiver
2 shall not be construed to bar an otherwise-preserved claim of ineffective assistance of
3 counsel or of "prosecutorial misconduct" (as that term is defined by Section II.B of Ariz.
4 Ethics Op. 15-01 (2015)).

5 Reinstitution of Prosecution

6 18. Nothing in this agreement shall be construed to protect the defendant in any
7 way from prosecution for perjury, false declaration or false statement, or any other offense
8 committed by the defendant after the date of this agreement. In addition, if the defendant
9 commits any criminal offense between the date of this agreement and the date of
10 sentencing, the government will have the right to withdraw from this agreement. Any
11 information, statements, documents and evidence which the defendant provides to the
12 United States pursuant to this agreement may be used against the defendant in all such
13 proceedings.

14 If the defendant's guilty plea is rejected, withdrawn, vacated, or reversed by any
15 court in a later proceeding, the government will be free to prosecute the defendant for all
16 charges as to which it has knowledge, and any charges that were dismissed because of this
17 plea agreement will be automatically reinstated. In such event, the defendant waives any
18 objections, motions, or defenses based upon the Speedy Trial Act or the Sixth Amendment
19 to the Constitution as to the delay occasioned by the later proceedings. Defendant agrees
20 that the stipulated sentencing ranges set forth under "Agreements Regarding Sentence" will
21 not be offered if prosecution is re-instituted.

22 Plea Addendum

23 19. This written plea agreement, and any written addenda filed as attachments to
24 this plea agreement, contain all the terms and conditions of the plea. Any additional
25 agreements, if any such agreements exist, shall be recorded in a separate document and
26 may be filed with the Court under seal. Accordingly, additional agreements, if any, may
27 not be in the public record.
28

1 WAIVER OF DEFENDANT'S RIGHTS AND FACTUAL BASIS

2 Waiver of Rights

3 I have read each of the provisions of the entire plea agreement with the assistance
4 of counsel and understand its provisions. I have discussed the case and my constitutional
5 and other rights with my attorney. I understand that by entering my plea of guilty I will be
6 giving up my right to plead not guilty; to trial by jury; to confront, cross-examine, and
7 compel the attendance of witnesses; to present evidence in my defense; to remain silent
8 and refuse to be a witness against myself by asserting my privilege against self-
9 incrimination; all with the assistance of counsel; to be presumed innocent until proven
10 guilty beyond a reasonable doubt; and to appeal.

11 I agree to enter my guilty plea as indicated above on the terms and conditions set
12 forth in this agreement.

13 I have been advised by my attorney of the nature of the charge to which I am entering
14 my guilty plea. I have been advised by my attorney of the nature and range of the possible
15 sentence, and that I will not be able to withdraw my guilty plea if I am dissatisfied with the
16 sentence the court imposes.

17 My guilty plea is not the result of force, threats, assurances or promises other than
18 the promises contained in this agreement. I agree to the provisions of this agreement as a
19 voluntary act on my part, rather than at the direction of or because of the recommendation
20 of any other person, and I agree to be bound according to its provisions. I agree that any
21 Sentencing Guidelines range referred to herein or discussed with my attorney is not binding
22 on the Court and is merely an estimate.

23 I agree that this written plea agreement contains all the terms and conditions of my
24 plea and that promises made by anyone (including my attorney) that are not contained
25 within this written plea agreement are without force and effect and are null and void.

26 I am satisfied that my defense attorney has represented me in a competent manner.
27
28

1 I am not now on or under the influence of any drug, medication, liquor, or other
2 intoxicant or depressant, which would impair my ability to fully understand the terms and
3 conditions of this plea agreement.

4 Factual Basis and Relevant Conduct

5 I further agree that the following facts accurately describe my conduct in connection
6 with the offense to which I am pleading guilty and that if this matter were to proceed to
7 trial the government could prove the elements of the offense beyond a reasonable doubt:

8
9 From a time unknown until December 17, 2019, in the District of Arizona,
10 Jovany Alonso Robledo-Delgado, Jesus Guillermo Martinez-Salgado, and
11 other unknown individuals conspired to import controlled substances into the
12 United States by exploiting an underground sewage line that crosses the
13 United States/Mexico Border. This sewage line is commonly known as the
14 International Outfall Interceptor (IOI) and is located in Nogales, Arizona.

15 On December 17, 2019, agents executed a search warrant at 754 N. Morley
16 Ave in Nogales, Arizona. Agents found a tunnel down to the IOI at that
17 location. Robledo-Delgado and Martinez-Salgado were present at the house
18 when agents executed the search warrant. Agents also found approximately
19 90.99 kilograms of methamphetamine, 3.06 kilograms of fentanyl, 0.66
20 kilograms of heroin and 1.02 kilograms of cocaine at the house. These
21 narcotics had travelled through the IOI and had been retrieved by Robledo-
22 Delgado and Martinez-Salgado. Robledo-Delgado and Martinez-Salgado
23 both admitted they conspired with each other and other unknown individuals
24 to smuggled narcotics from Mexico into the United States through the IOI.
25 They also admitted they were responsible for retrieving what they knew to
26 be controlled substances from the IOI and delivering them to other
27 individuals in the United States.
28

10/21/2020
Date



FIR W/ PERMISSION
Jesus Guillermo Martinez-Salgado
Defendant

DEFENSE ATTORNEY'S APPROVAL

I have discussed this case and the plea agreement with my client in detail and have advised the defendant of all matters within the scope of Rule 11, Fed. R. Crim. P., the constitutional and other rights of an accused, the factual basis for and the nature of the offense to which the guilty plea will be entered, possible defenses, and the consequences of the guilty plea, including the defendant's waiver of the right to appeal. No assurances, promises, or representations have been given to me or to the defendant by the government or by any of its representatives which are not contained in this written agreement. I concur in the entry of the plea as indicated above and on the terms and conditions set forth in this agreement as in the best interests of my client. I agree to make a bona fide effort to ensure the guilty plea is entered in accordance with all the requirements of Rule 11, Fed. R. Crim. P.

I translated or caused to be translated this agreement from English into Spanish to the defendant on the 21 day of October, 2019. 2020

Date: Oct. 21, 2020


 Ramiro Flores
 Attorney for Defendant

GOVERNMENT'S APPROVAL

I have reviewed this matter and the plea agreement. I agree on behalf of the United States that the terms and conditions set forth are appropriate and are in the best interests of justice.

MICHAEL BAILEY
 United States Attorney
 District of Arizona

CRAIG
 RUSSELL

Digitally signed by
 CRAIG RUSSELL
 Date: 2020.09.29
 08:44:38 -07'00'

CRAIG H. RUSSELL
 Assistant U.S. Attorney

Date: _____